

Public Education Committee

Thursday, May 24, 2018

Invited Testimony

Chris Masey

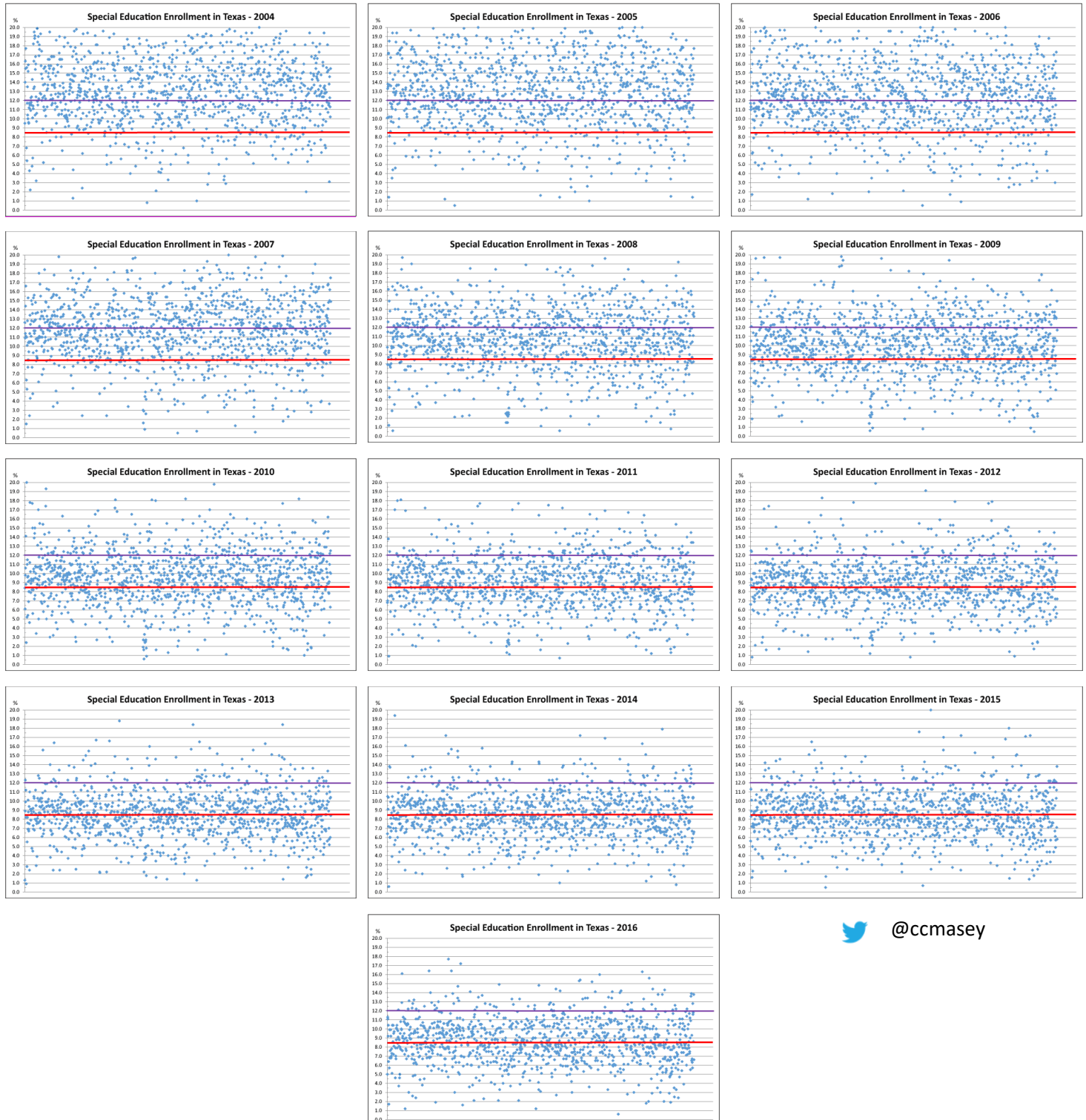
Senior Policy Specialist

Coalition of Texans with Disabilities

cmasey@txdisabilities.org

PBMAS Indicator #10

Prior to the addition of Indicator #10 in the Performance-Based Monitoring Analysis System (PBMAS) manual, Texas' average special education enrollment was approximately **11.7%** (2003-2004). Figure 1 illustrates the race for school districts to comply to the target goal of 8.5% enrollment for children in special education. Many schools were above 8.5%, but very few schools had enrollments at or above 11.7% by 2016.




 @ccmasey

Figure 1. Texas Special Education Enrollment – All Schools (2004 – 2016). TEA supplied data

Texas Special Education Enrollment

The enrollment increase from 2015 to 2018 is not a “surge.” It is a small incremental change.

Figure 2. Texas Special Education Enrollment 2015-2018					
	Total Student Enrollment	TOTAL SPED Enrollment	INCREASED SPED Enrollment (per year)	% Change	Change (per year)
2015-2016	5,299,728	463,185	-	8.74%	-
2016-2017	5,359,127	477,281	14,096	8.91%	0.17%
2017-2018	5,399,682	498,320	21,039	9.23%	0.32%
Total Increase	99,954		35,135		0.49%
Sources:					
https://rptsvr1.tea.texas.gov/cgi/sas/broker					
https://tea.texas.gov/acctres/enroll_2016-17.pdf					

Enrollment changes are grouped in six disability types with some surprises including some disability types that are typically considered easy to diagnose and evaluate.

Figure 3. Texas Special Education Enrollment 2015-2018 - Primary Disability														
Primary Disability	ORTHOPEDIC IMPAIRMENT	OTHER HEALTH IMPAIRMENT	AUDITORY IMPAIRMENT	VISUAL IMPAIRMENT	DEAF/BLIND	INTELLECTUAL DISABILITY	EMOTIONAL DISTURBANCE	LEARNING DISABILITY	SPEECH IMPAIRMENT	AUTISM	DEVELOPMENTAL DELAY	TRAUMATIC BRAIN INJURY	NONCATEGORICAL EARLY CHILDHOOD	Total
2017-2018	3,632	70,360	6,964	3,906	281	53,037	29,029	157,752	100,412	64,783	44	1,337	6,783	498,320
2016-2017	3,699	66,125	6,961	3,927	245	49,887	27,401	157,229	95,498	58,945	41	1,297	6,026	477,281
2015-2016	3,806	62,714	7,046	3,967	229	46,329	26,725	159,503	91,917	54,098	51	1,325	5,475	463,185
difference	-174	7,646	-82	-61	52	6,708	2,304	-1,751	8,495	10,685	-7	12	1,308	35,135
Source:														
https://rptsvr1.tea.texas.gov/adhocrpt/adser.html														

Regardless of the increase in Texas’ special education enrollment, (with the assumption of an 11.7% enrollment rate) hundreds of thousands of children are still not being served by the system.

Figure 4. Children with Disabilities Still NOT Receiving Services						
	TOTAL Enrollment	TOTAL SPED Enrollment	%	To REACH 11.7%	TOTAL SPED Enrollment @ 11.7%	Children Not Served
2012-2013	5,075,840	440,570	8.68%	-3.02%	593,873	(153,303)
2013-2014	5,151,925	443,834	8.61%	-3.09%	602,775	(158,941)
2014-2015	5,232,065	451,606	8.63%	-3.07%	612,152	(160,546)
2015-2016	5,299,728	463,185	8.74%	-2.96%	620,068	(156,883)
2016-2017	5,359,127	477,281	8.91%	-2.79%	627,018	(149,737)
2017-2018	5,399,682	498,320	9.23%	-2.47%	631,763	(133,443)
Source:						
https://rptsvr1.tea.texas.gov/adhocrpt/adser.html						

Department of Education Findings - Corrective Action

Citation 1 - **TEA failed to ensure that all children with disabilities** residing in the State who are **in need of special education and related services** were **identified, located, and evaluated**, regardless of the severity of their disability, as required by IDEA section 612(a)(3) and its implementing regulation at 34 CFR §300.111.

Citation 2 - **TEA failed to ensure that a Free and Appropriate Pubic Education (FAPE) was made available to all children with disabilities** residing in Texas for mandated age ranges (ages 3 through 21), as required by IDEA section 612(a)(1) and its implementing regulation at 34 CFR §300.101.

Citation 3 - **TEA failed to fulfill its general supervisory and monitoring responsibilities** as required by IDEA sections 612(a)(11) and 616(a)(1)(C), and their implementing regulations at 34 CFR §§300.149 and 300.600, along with 20 U.S.C. 1232d(b)(3)(A), to ensure that ISDs throughout the State properly implemented the IDEA Child Find and FAPE requirements.

Office of Special Education Programs (OSEP) Requirements to Address Findings:

1. **Documentation** that the **State's** system of general supervision **requires that each ISD identifies, locates, and evaluates all children suspected of having a disability who need special education and related services**.
2. A plan and timeline by which **TEA will ensure that each ISD** will (i) **identify, locate, and evaluate children** enrolled in the ISD **who should have been referred for an initial evaluation** under the IDEA, (ii) **require IEP Teams to consider**, on an individual basis, **whether additional services are needed for children previously suspected of having a disability who should have been referred for an initial evaluation** and were **later found eligible for special education and related services** under the IDEA, taking into consideration supports and services previously provided to the child.
3. A plan and timeline by which **TEA will provide guidance to ISD staff** in the State, including all general and special education teachers, **necessary to ensure that ISDs** (i) **ensure that supports provided to struggling learners** in the general education environment through **RTI, Section 504, and the State's dyslexia program** are **not used to delay or deny a child's right** to an initial evaluation for special education and related services under the IDEA; (ii) are **provided information** to share with the parents of children suspected of having a disability that **describes the differences between RTI, the State dyslexia program, Section 504, and the IDEA**, including how and when school staff and parents of children suspected of having a disability may request interventions and/or services under these programs; and (iii) **disseminate such information to staff and the parents** of children suspected of having a disability enrolled in the ISD's schools.
4. A plan and timeline by which **TEA will monitor ISDs' implementation** of the IDEA requirements described above when struggling learners suspected of having a disability and needing special education and related services under the IDEA are receiving services and supports through RTI, Section 504, and the State's dyslexia program.

(Appendix C – Special Education Strategic Plan)

Special Education Strategic Plan

1. Monitoring

- a. 1,200 Local Education Agencies (LEAs)
- b. TEA to increase its monitoring capacity
 - i. Review and Support teams
 - ii. Monitor LEAs related to IDEA and federal and state
 - iii. Provide targeted technical assistance and support for LEAs
 - iv. Escalate support for LEAs experiencing significant challenges
 - v. Collect data via Public Education Information Management System (PEIMS)
 - vi. Desk reviews and on-site visits
 - vii. Up to 20 percent of the LEAs in Texas could receive an on-site visit in any given year
 - viii. Ensure compliance with IDEA requirements

2. Identification, evaluation, and the offer of free appropriate public education (FAPE) [CHILD FIND]

- a. Immediate Short-Term Corrective Actions
 - i. Identification support
 - ii. Funding
 - iii. Additional Services Guidance: compensatory services
 - iv. Targeted LEA Outreach to Parents Most Likely Impacted
 - v. Outreach campaign
 - vi. Evaluation support
 - vii. Additional Services Funding - \$65 million
- b. Ongoing Action Steps
 - i. Updated Guidance on Identification and Evaluation
 - ii. Complaints - complaints team sufficiently staffed to resolve in a timely manner all special education complaints that the agency receives
 - iii. Dispute Resolution Support
 - iv. Clarification and Guidance
 - v. Dispute Resolution – public outreach and education materials

3. Training, Support, and Development

- a. Additional Evaluation Capacity
- b. Professional Development
- c. Child Find Resource Development
- d. Expert Support
- e. Texas Dyslexia Handbook
- f. Dyslexia-Specific Support
- g. Dyslexia and Related Disorders Reporting Study
- h. Finance System - handbook for understanding the school finance system related to special education
- i. Sufficient Special Education Staffing
- j. Governance - training resources for school boards on special education, with a focus on monitoring outcomes and program implementation fidelity
- k. Texas Workforce Commission (TWC) Partnership - General Workforce Resources and General Vocational Rehabilitation (VR) Available to Individuals with Disabilities

4. Student, Family, and Community Engagement

- a. Outreach Campaign to Identify, Locate, and Evaluate - an accessible campaign that clearly informs families and provides actionable steps they could take
- b. Family Support Call Center and Portal
- c. Parent Brochures
- d. Ongoing Stakeholder Engagement

5. Technical Assistance Networks

Grants or contracts from TEA that support a series of thematic networks (ESCs and Institutions of Higher Education (IHEs). Resources from these networks are available to any LEA in the state and are intended to leverage best practices. These networks have remained largely unchanged for over fifteen years. As part of this strategic plan, TEA will redesign the statewide networks.

- a. Network One: Child Find, Evaluation, and ARD Supports
- b. Network Two: School, Family, and Community Engagement
- c. Network Three: Inclusive Services and Practices for Improved Student Outcomes
- d. Network Four: Autism
- e. Network Five: Intervention Best Practices
- f. Network Six: Students with Intensive Needs
- g. Network Seven: Students with Sensory Impairments
- h. Network Eight: Students in Small and Rural LEAs
- i. Network Nine: Student-centered Transitions
- j. Network Ten: Multiple Exceptionalities and Multiple Needs

Appendix A: Feedback Documentation

Appendix B: Previous and Current Improvements - improvement activities meant to ensure concerns raised by both stakeholders and the USED were being addressed immediately. Seven actions have been undertaken:

1. A "To the Administrator" letter was sent on November 17, 2016, reminding local education agencies (LEAs) of their Child Find obligations in IDEA; that Response to Intervention (RtI) strategies may not be used to delay or deny an initial evaluation- and to clarify TEA's monitoring efforts regarding prevention of over-identification of students with disabilities.
2. TEA reviewed the Parent's Guide to the ARD Process and identified possible training and technical assistance to be provided regarding Child Find, RtI, and the Performance Based Monitoring Accountability System (PBMAS).
3. TEA reviewed monitoring activities specific to the schools that LEAs discussed in the Houston Chronicle articles and cited in the October 3, 2016 USED letter and followed up, as appropriate, with those LEAs.
4. TEA will create a single indicator for calculation of significant disproportionality.
5. TEA hired ten additional staff.
 - a. Twenty-eight Education Service Center (ESC) liaisons
6. TEA discontinued the use of PBMAS Indicator 10 and begin to implement the requirements of SB 1153 which required a notice (as defined in the bill) to parents of each child, other than a child enrolled in special education, who receives assistance for learning difficulties, including through the use of intervention strategies.

APPENDIX E: Survey Analysis

Our Concerns

- **Both the Strategic Special Education Plan and Corrective Action Plan are not codified by rule or statute**
 - TEA should pass rules to formally recognize or adopt both the Corrective Action Response and the Special Education Strategic Plan. Neither document, is legally codified in any way
 - TEA Commissioner should begin the rulemaking process immediately to codify
 - Legislative directive may be necessary during the upcoming 86th legislative session
- **Funding**
 - Current directives to LEA's will be a massive financial burden
 - Current allocated funding only uses existing unallocated Individuals with Disabilities Education Act (IDEA) funds; which may not be enough to address the problem
 - No IDEA money should be used to expand TEA staffing
 - TEA should use all IDEA money on programs that directly affect students with disabilities and not to replace staff and overhead costs
 - TEA should add a line item and request appropriate funding in their Legislative Appropriations Request (LAR) to "Implement the Corrective Action Response and the Special Education Strategic Plan" for the 2019-2020 biennium
 - This should not be an exceptional item
 - There must be a consistent, dedicated, and long-term funding mechanism
- **Evaluations bottleneck**
 - TEA should help school districts to leverage all available and qualified professionals to meet federal guidelines to conduct evaluations after a request for evaluation has been made
 - Drafting Memorandums of Understanding (MOU's) with Education Services Centers (ESC's) to share staff outside of traditional school district boundaries
 - Leveraging or extending qualified and experienced service providers such as Early Childhood Intervention (ECI) providers
 - Allowing exemptions for qualified and experienced medical professionals and licensed therapists such as: pediatricians, primary care physicians, specialists, licensed speech and occupational therapists and other qualified medical professionals to verify disability and recommend service and support needs
 - exemptions would provide a knowledgeable and qualified method for "advanced placement" for children to begin services pending a full school district or third-party evaluation
 - allow other evaluators and diagnosticians more time to conduct evaluations for children whose disabilities are not currently under a doctor's or therapists care
- **Missing Elements**
 - There is no process or procedure to identify and remediate students who didn't receive services who have "aged out" of the system to provide compensatory services
 - Consider leveraging TWC vocational rehabilitation programs to provide compensatory services
 - Opportunities for parental and student input and complaints are limited or ignored for most TEA operations
 - Professional development for teachers and all LEA staff must be reevaluated in light of the special education strategic plan
 - Must include non-teachers such as Administrators. "Others" as stated in the strategic plan is very unclear.